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October 7th, 2014 Minutes

Brookings County Planning & Zoning Commission
October 7th, 2014 – 8:00 P.M.
Brookings City & County Government Center
310 Chambers

Chair Jeff Robbins called the meeting to order at 8:00 P.M. Commission members present were: Tom Yseth, Kimberly Elenkiwich, Bob Rochel, Darrell Nelson, Darrel Kleinjan, Allen Jones, alternate board members Tom Davis and Roger Erickson. Randy Jensen was absent.

Chair Robbins read agenda item # 1: Approval of Minutes from September 2nd, 2014 meeting. Bob Rochel moved to approve the minutes with noted correction on bottom of page 2 from “Chair Rochel” to “Chair Robbins”. Allen Jones second. Chair Robbins opened for discussion, seeing none called for voice vote. 9-ayes and 0-nays. Motion carried.

Chair Robbins read agenda item # 2: Items to be added to agenda by commission members or staff. No items were added by commission members or staff.

Chair Robbins read agenda item # 3: Invitation for citizen to schedule time on the commission agenda for an item not listed. Time limited to 5 minutes per person to address the board. No scheduled time to address the board.

Chair Robbins read agenda item # 4: Approval of Agenda. Darrel Kleinjan moved to approve the agenda. Kimberly Elenkiwich second. Chair Robbin called for a voice vote. 7-ayes and 0-nays, motion carried.

Chair Robbins stated “We are acting as the Planning and Zoning Commission” read the opening statement and **agenda item # 5: Reconsideration 2014cu010: Request to reconsider Alex L. Kahler’s conditional use permit application 2014cu010, to the Brookings County Planning and Zoning Commission for a conditional use. Article 11: Section 11.01: “A” Agricultural District, Conditional Use # 26: “The County Zoning Commission may permit other uses which, in its opinion are not detrimental to other uses and are in the general character of the Agricultural District”. The property is described as: “Kahlers Addtn Tract 3 in SE1/4 of Sect. 30, T110N, R48W(Alton Township).** Tom Yseth move to approve the reconsideration of 2014cu010. Tom

Davis second. Chair Robbins opened up for discussion. Mr. Brian Donahoe an attorney from Sioux Falls representing Mr. Kahler addressed the board stating, "He thanked the board for allowing the reconsideration. On the initial application as it was presented, not all nine members of the board were available to vote. This evening we are asking for a vote of all nine members. I will give a brief overview tonight. This is a small family business, seeking to put up a building to be used for gene nome sequencing. The majority of the sequencing is done on animals and plants for agricultural, although they do some DNA sequencing for animals and humans, but the majority is just animals and plants for agriculture. The building will be compatible in the agricultural district. There will not be a large number of employees, not a lot of traffic. The uses are within the building, but also maybe a greenhouse for other agricultural production of plants in the future. This fits into the ag district. A Highway 14 location is not available. He wants to put it on land that is marginal for agricultural production and will be compatible with the surrounding uses. The township has no problems with the roads and not a lot of traffic on the road. Mainly FEDX, UPS or US Postal service vehicles and traffic from 6-10 employees at most. This is a high tech agricultural value added enterprise." Chair Robbins opened up for discussion from the board. Mr. Hill stated, "We have received some correspondence that was passed out to the zoning board and Mr. Haugen has those correspondences that were receive." Richard Haugen read a statement, which is on file, from adjoining land owner Scott Miskimins stating, "He does not want a business located across the road from him in the country" and a letter from Alton Township, which is on file stating, "The Alton Township is opposed to the reconsideration of 2014cu010 for Alex Kahler, as it would cause additional wear and tear on the township roads along with winter maintenance which would result in more dollars spent of which Alton Township could not afford. Beth Frederickson, Clerk of Alton Township." The board discussed the minutes of the June 15th, 2012 meeting allowing the temporary conditional use, which this would allow Mr. Kahler time to relocate back into city; possibility of a road use agreement with Alton Township; if semi-trucks would be making deliveries to this location and what would happen to the building if the business goes away. Mr. Donahoe replied to the questions; "Mr. Kahler had explored for locations in the city, but it was not economically feasible to relocate in the city. He would be willing to enter into a road use agreement with the township. No semi-trucks would be required for deliveries to his business. The building's interior could be removed and it could be used for storage." Some board member expressed that this should be considered a commercial business and be located on a hard surface road. Chair Robbins opened up for discussion from the audience. Seeing none he asked for further discussion from the board. Seeing none, Chair Robbins asked Ms. Thoreau to go over the Findings of Facts, with any addition, which are on file. Chair Robbins called for a roll call vote: Rochel-nay, Nelson-aye, Kleinjan-nay, Jones-aye, Elenkiwich-aye, Davis-nay, Erickson-aye, Yseth-aye and Robbins-nay. 5-ayes and 4-nays, motion failed.

Chair Robbins read **agenda item # 6. 2014cu011: Killeskillen LLC by Michael Crinion, has made an application, 2014cu011, to the Brookings County Planning and Zoning Commission for a conditional use. Article 11:**

Section 11.01: "A" Agricultural District, Conditional Use # 11: Class A, B, C and D Concentrated Animal Feeding Operation". The property is described as: "NE1/4 of Section 10, T112N, R48W (Oak Lake Township)". Darrell Nelson moved to approve the conditional use request. Allen Jones second. Chair Robbins opened up for discussion and Mr. Crinion to address the board. Mr. Crinion stated, "We are here to apply for a dairy permit for in Oak Lake Township. This would be for 3,900 cows or 5,500 animal units similar to Northern Sky Dairy near Bruce, which is a very well-constructed and run operation. We would incorporate two new improvements; 1) it would be located on county black top road and 2) we will scrape the manure with a vacuum tank, which will decrease the amount of odor produced. We would have a shelterbelt on the north and east side of the operation. It is located within the area of three large milk processors here in eastern South Dakota, Bell Brands here in Brookings, Davisco at Lake Norden and Valley Queen at Milbank. The economic would be 58 million dollars a year and would employ 30 people. Mr. Brian Fredrickson from Dakota Environmental is here to answer any technical questions. The site is on the crest of a hill, in the Northeast corner of the Northeast quarter of Section 10, with the feed center to the west and manure storage to the south. The total site is 220 acres and includes the house to the south." Chair Robbins asked Ms. Thoreau to for her staff report. Ms. Thoreau went over staff report with the board. The applicant has met all the requirements in the ordinance and if any requirements are not kept or if any of the state requirements are not kept, the conditional use permit may be in violation. The board discussed water quality and if any additional safe guards have been added, if test wells would be installed and what type of nutrient they monitor; the engineers report of the design capacity is 150 percent of the needed capacity, 1 ½ times the area needed. Mr. Crinion stated, "We have designed the manure storage for 365 days of storage, the county requires 270 days of storage. We figured in a 25 year 24 hour storm event and have added an additional 2 feet of free board storage on top of that." Mr. Brian Fredrickson, from Dakota Environmental out of Huron, addressed the board concerning the test wells and manure storage design. The topography at the site of the storage ponds lends itself pretty well. The excavation will be below the existing grade, except for of a couple of areas, it keeps the edges on the containment from eroding away. The rules that we are required to design to for large ponds are subject to the dam safety regulations that are set by the state. We could incorporate some additional retaining structures as a secondary containment in the drainage area if the board is inclined to require that. The dirt would be excavated out below grade and used to raise up the building pad and storage area the way the design is laid out. When the general application is prepared for the state permit the ground water division at South Dakota Department of Environment and Natural Resources does their review of the site. The information we submit them, the information in their data bases and their test wells in the area over time and they will issue a requirement if they think it is necessary to put in test wells. It is well within the bounds of the board if they want to add that condition, I don't see any problem with doing it. They would be located in a line closer to the bottom of the drainage area. The initial borings we did, we did not hit any water within 50 feet of the surface. The test well would monitor the nitrate level and not the phosphorus

level. Phosphorus is not as easily detectable in well sample, but could be monitored. The South Dakota Department of Environment and Natural Resources would assist and determine the location of the test wells.” Chair Robbins read comments received by him and the Zoning office. Chair Robbins stated, “We received comments from Chuck Nygaard from Lake Hendricks Lake Association, Mrs. Larson, Mr. Fuss, Dennis Johnson a member of the Lake Hendricks Improvement Association and Roger Hexum of 19936 Ramlo Shore Dr, Hendricks. They all stated they were opposed the CAFO and would want test wells installed to monitor it.” All comments received are on file. Chair Robbins opened up for discussion from the audience, limiting the time to 5 minutes per person for comments. Joe Beech, project manager of Lake Hendricks Improvement Association from 2008-2010 has concerns, if something goes wrong, it will take a long time to clean up and affect a lot of people. Candice Stamp had concerns they are 2 miles away and were not notified, how the run off will affect Deer Creek, along with plowing of roads for work and the bus. Steve Hemmingson has concerns that when he bought his cabin in 1980 the lake was green, now 34 years later it is not green and a lot of people worked hard to improve the lake. A 25 year 24 hour rain event with 6-7 inches of rain is not a rare event here. Norris Patrick has concerns monitoring of surface water, taxation, manure storage and the need to get rid of it. Brad Olson has concerns with pollution, the project moving too fast and odor. Tom Reeves has concerns with odors, wants the Class A dairy to make sure nothing changes from the way things are right now. Dennis Justison has concerns with water, odor, and animal treatment. Jay Nelson, has concerns with quality of life at the lake, would like a guarantee that this would not affect the lake. Patricia Stormo has seen several big rain events at the lake, they’ve worked hard to get the lake where is today. Jim Joshalin has concerns to table it, to get more information. Jim Eggen grew up here, wants to take this slow. Robert Kor supports the dairy, they live by one and they are support dairy and agriculture, you live in the country it may smell. Arjan Block shared, the dairies go by the rules of the state, work with DENR, state engineers and there are rules in place for a reason. Nancy Beech has concerns with fresh water, setbacks, test wells and downstream impacts. Larry Fliss has concerns with fish at Oak Lake, the area is hilly and may drain into the lakes. Shirley Larson express you the board are our representatives for the lake. David Church is not against the dairy, but the ground around it is hilly. Jim Blue has concerns to slow the process down and get DENR thoughts. Emily Oken expressed support for the dairy, they use the latest technology, help maintain water quality, take care of the water and their animals and invited the residents to go visit a dairy. Janice Mullen has concerns it is too close to Oak Lake. Mr. Crinion addressed the concerns from the audience stating, “We have a “0” discharge facility, we have to account for every gallon in and every gallon going out. Manure is not spread on the ground, it is incorporated into the soil. Soils test are done so they know how much manure to apply. We will get road agreements with the townships. We have figured in 365 days of manure storage, along with a 24 hour 25 year storm event and then added an additional 2 feet of freeboard for storage on top of that for the capacity of the manure storage ponds. They have adequate ground available for the manure application. You take care of the animals and they

will take care of your. The animals are well taken care of.” Mr. Fredrickson went over a demonstration with the board and audience on how the manure storage ponds capacity was calculated. Chair Robbins asked for further discussion from the audience. Seeing none he asked for further discussion from the board. The Board discussed the water source they were going to use; if the nutrient management plan is DENR verified; soil borings at the site; if they planned to expand and if so how soon; secondary berm below the storage ponds; adjoining landowner notification and planting of trees. Mr. Crinion stated, “They will have two water sources, Brookings Deuel Rural water and they will drill a well for water also. SD DENR verifies the spreading agreements locations.” Mr. Fredrickson went over the soil borings at the site stating, “All the soil borings were good, there were none that did not meet the standards. If this passes tonight, there will be additional soil borings, design information and specifications and a packet that will be four times as thick as the one you have to DENR. Being this is a new application, SD DENR will initially review it to consider it is complete. They will publish a public notice in the local paper, that the application has been received by them and the public has 30 days to offer any comments or concerns to DENR in Pierre. They will review those comments as they review the application and respond to anyone who has submitted comments. The project cannot be approved for construction until after that public notice period has expired and all who had comments have been responded to.” Mr. Crinion stated, “They have no plans for expansion and it would be built in one phase. They will construct a secondary berm to the engineers’ specifications and location and plant trees to the north and east using the Conservation District’s guidelines.” Chair Robbins asked Mr. Hill to go over the notification process. Mr. Hill stated, “State law requires any time we do a conditional use we notify all adjoining landers. We draw a map around the location of the site itself. For a conditional use or a variance either one, it is strictly around the boundary of the property. People miles downstream or half a mile away would not be notified. This is the way we do it. We prepare a map around the site, my staff goes literally around the whole thing and all adjoining landowners are sent a copy of the notice, with our office contact information so they can call us for more information. We are required to publish it in the newspapers.” Mr. Hill asked Richard Haugen which papers it was published in. Mr. Haugen replied, “The public notices were sent to the Brookings Register and the Hendricks Pioneer”. Mr. Hill stated, “It is my opinion we followed state law for the notices of this conditional use permit.” Chair Robbins closed the discussion and asked Ms. Thoreau to go over the Findings of Facts, with any additions, which are on file. Chair Robbins called for a voice vote: Nelson-nay, Kleinjan-aye, Jones-aye, Elenkiwich-aye, Davis-nay, Erickson-aye, Yseth-aye, Rochel-aye and Robbins-nay. 6-ayes and 3-nays. Motion carried. Chair Robbins called for a 5 minute recess at 12:00 AM. Chair Robbins reconvened the meeting at 12:07 AM.

Chair Robbins read **agenda item # 7: 2014cu012: Aaron VanSchoiack has made an application, 2014cu012, to the Brookings County Planning and Zoning Commission for a conditional use. Article 11: Section 11.01: “A” Agricultural District, Conditional Use # 1: Airport and airstrips. The property is described as: “Halbersma Addtn Lot 1 Exc N600.18’ & Exc W300’ in NE1/4**

of Section 19 T112N, R49W (Argo Township) and Halbersma Addtn N600.1' & W300' of Lot 1 in NE1/4 of Section 19, T112N, R49W (Argo Township)" ~ 19937 473rd Ave, White, SD 57276. Tom Yseth moved to approve the conditional use. Kimberly Elenkiwich second. Chair Robbins opened up for discussion and asked Mr. VanSchoiack to address the board. Mr. VanSchoiack stated, "He would like to have private air strip on his property for private use and he buys, sells and repairs air planes." Chair Robbins asked Ms. Thoreau for her staff report. Ms. Thoreau stated, "Mr. VanSchoiack has applied for a conditional use for an airstrip, 2,000 feet long and 60 feet wide on his property of 14 acres. There is a power line across the road and also along the driveway to the property. This would be a private airstrip not for public use, except in the case of emergency, then emergency aircraft would be have access to it." The board discussed the property adjacent to the applicant does not own, safety concerns with the power line across the road and Interstate 29 on the west side of his property, driveway access while the airstrip is in use, road signage on the township road of low flying aircraft and having a letter from the township acknowledging the conditional use. Mr. VanSchoiack answered the concerns of the board stating, "He has an agreement with the adjoining landowner for the airstrip, he will pay the power company to bury the power line that would be at the end of the airstrip across the road at his expense, the air strip would be approximately 60 feet to the north of his drive way running parallel with it, he would have low flying aircraft signs installed on the township road." Mr. Hill stated, "South Dakota Department of Transportation does not have a problem with the airstrip being close to Interstate 29." Mr. Haugen read a correspondence with Argo Township saying they have no objections." Chair Robbins opened up for discussion from the public. Seeing none, he asked Ms. Thoreau to go over the Findings of Facts, with any additions, which are on file. Chair Robbins called for a roll call vote: Kleinjan-aye, Davis-aye, Jones-nay, Erickson-nay, Elenkiwich-nay, Rochel-aye, Yseth-aye, Nelson-aye and Robbins-aye. 6-ayes and 3-nays, motion carried.

Chair Robbins at this time moved up the plats up on the agenda, due to the time and the property owners have been here since the start of the meeting. **Chair Robbins read agenda item 10: Consideration of Plats: a.) 2014plat015: "Plat of Ribstein Addition located in the N1/2 of the NE1/4, Section 21, T110N, R50W of the 5th P.M., Brookings County, South Dakota."** Tom Yseth moved to approve the plat. Bob Rochel second. Chair Robbins opened up for discussion from the board and asked Ms. Thoreau for her staff report. Ms. Thoreau stated, "They are platting of an existing building site (homestead) along Highway 14." Chair Robbins opened up for discussion from the audience. Seeing none he called for a roll call vote: Davis-aye, Jones-aye, Erickson-aye, Elenkiwich-aye, Yseth-aye, Rochel-aye, Nelson-aye, Kleinjan-aye and Robbins-aye. 9-ayes and 0-nays. Motion carried.

Chair Robbins turned the chair over to vice chairman Bob Rochel at this time due to a conflict of interest. Vice Chair Rochel read **agenda item 10: Consideration of Plats: b.) 2014preliminary plat016: "Preliminary Plat of Dakota Shores Second Subdivision located in Gov't Lots 3 & 4, Section 15, T112N, R47W of the 5th P.M., Brookings County, South Dakota."** Darrell Nelson

moved to approve the preliminary plat. Tom Davis second. Chair Rochel opened up for discussion and asked Ms. Thoreau for her staff report. Ms. Thoreau stated, "This is a preliminary plat at Lake Hendricks meeting the lot size requirements. The preliminary plat needs some updates 1) some of the lots across the road have been re-platted and have a new lot numbers, which would need to be updated to the new lot number on the plat; 2) identify the dedicated drain age; 3) lot identify where the rear lot line is on lot 1; 4) may want to combine lot 12 as it may not be able to meet the setback requirements due the shape, with lot 11; 5) identify utility easement area." Chair Rochel asked Mr. Zylstra to address the board. Mr. Vince Zylstra stated, "He purchased his house and the balance of the property from the person who started the development, it was partially developed and he finished developing it. Where he started developing the lots he made the road wider. The land is currently in CRP and the contract is up. The lot owners across the road have express interest in having a lot across the road from them so they could build a garage for storage purposes, as they have a restriction on their lots of no unattached buildings. The lots line up for the most part line up right across from one another, for that purpose, the non-lake front lot lines up with the lake front lots across the road." Mr. Hill stated, "He could bring it back as a final plat with all the lots or individual plats for each lot as they are sold. We have allowed this at other developments up here in in Lake Hendricks." The board discussed that the corrections should be made for a final plat to be approved. Chair Rochel opened up for discussion from the audience, seeing none, he called for a roll call vote: Jones-aye, Erickson-aye, Elenkiwich-aye, Yseth-aye, Rochel-aye, Nelson-aye, Kleinjan-aye, Davis-aye and Robbins-abstained. 8-ayes, 0-nays and 1-abstained, motion carried. Vice Chair Rochel turned the chair back over to Mr. Robbins at this time.

Chair Robbins read **agenda item # 8: 2014cu013: Aaron VanSchoiack has made an application, 2014cu013, to the Brookings County Planning and Zoning Commission for a conditional use. Article 11: Section 11.01: "A" Agricultural District, Conditional Use # 20: Home Extended Business. The property is described as: "Halbersma Addtn Lot 1 Exc N600.18' & Exc W300' in NE1/4 of Section 19 T112N, R49W (Argo Township) and Halbersma Addtn N600.1' & W300' of Lot 1 in NE1/4 of Section 19, T112N, R49W (Argo Township)" ~ 19937 473rd Ave, White, SD 57276.** Tom Yseth moved to approve the conditional use request. Bob Rochel second. Chair Robbins opened for discussion and asked Ms. Thoreau for her staff report. Ms. Thoreau stated, "Mr. VanSchoiack has applied for an extended home business to buy and sell airplanes from his residence. The hours of operation are by appointment only will be posted as required by the state." Chair Robbins asked Mr. VanSchoiack to address the board. Mr. VanSchoiack stated, "He buy, sells and repairs airplanes. The repairable air planes are bought in on a trailer. He rebuilds (repairs) them and the sells them. Most of the planes he buys and sells are not on site they are at airports. He is open by appointment only." The board discussed the number of planes that may be on the property at one time, the size wing span of plane that he may have, how he disposes of waste products and fuel storage, having a letter from the township acknowledging the conditional use. Chair Robbins opened for discussion

from the audience, seeing none, he asked Ms. Thoreau to go over the Findings of Facts, with any additions, which are on file. Chair Robbins called for a roll call vote: Erickson-aye, Elenkiwich-nay, Yseth-aye, Rochel-aye, Nelson-aye, Kleinjan-aye, Davis-aye, Jones-nay and Robbins-aye. 7-ayes and 2-nays, motion carried.

Chair Robbins read **agenda item # 9: 2014cu014: Aaron VanSchoiack has made an application, 2014cu014, to the Brookings County Planning and Zoning Commission for a conditional use. Article 11: Section 11.01: "A" Agricultural District, Conditional Use # 20: Home Extended Business. The property is described as: "Halbersma Addtn Lot 1 Exc N600.18' & Exc W300' in NE1/4 of Section 19 T112N, R49W (Argo Township) and Halbersma Addtn N600.1' & W300' of Lot 1 in NE1/4 of Section 19, T112N, R49W (Argo Township)" ~ 19937 473rd Ave, White, SD 57276.** Kimberly Elenkiwich moved to approve the conditional use. Darrell Nelson second. Chair Robbins opened up for discussion and asked Ms. Thoreau for her staff report. Ms. Thoreau stated, "Mr. VanSchoiack has applied for an extended home business to buy and sell used cars from his residence." Chair Robbins asked Mr. VanSchoiack to address the board. Mr. VanSchoiack stated, "South Dakota law used to be if you transferred more than five (5) titled vehicles a year, trailers, cars, snowmobiles, etc, you were required to have a dealership. The law has changed to if you sell more than one (1) for a profit you are required to have a dealer's license. Since I have had dealership, I buy my vehicles from a dealer, get a good deal for my own vehicles. Sometimes I sell them when I update my own vehicle. I don't have a used car lot. I don't sell a car every 3 months. I am required by the state to have the dealership if I am going to sell one (1) for a profit." The board discussed how many cars to allow to have at one time to sell and having a letter from the township acknowledging the conditional use. Chair Robbins opened up for discussion from the audience. Seeing none, he asked Ms. Thoreau to go over the Findings of Facts, with any additions, which are on file. Chair Robbins called for a roll call vote. Elenkiwich-aye, Yseth-aye, Rochel-aye, Nelson-aye, Kleinjan-aye, Davis-aye, Jones-aye, Erickson-aye and Robbins-aye. 9-ayes and 0-nay, motion carried.

Chair Robbins read **agenda item # 11. Discussion on Comprehensive Plan Update.** Due to the time the comprehensive plan update, will be discussed at a later date.

Chair Robbins read **agenda item # 12. Department Reports.** Chair Robbins asked Mr. Hill for his director's report. Mr. Hill stated, "Mr. Royce Emerick came in the zoning office, about nine and one-half (9 ½) years ago came built a house on SD 324. We issued the building permit May 14, 2004, the final inspection was done one September 1, 2005, and he wants to split off as a homestead, per our ten (10) requirement. Question I have for you is do we go from the date the building permit was issued or the date when the final inspection was done? The board discussed to get the opinion from the deputy state's attorney and use what date they determine.

Chair Robbins adjourned he meeting at 2:23 AM on October 8th, 2014
Richard Haugen
Brookings County
Development Department.